

air waybills are attached, the statement "Cargo as per air waybills attached" must appear on the manifest. The manifest must reference an 11-digit air waybill number for each air waybill it covers. The air waybill number must not be used by the issuer for another air waybill for a period of one year after issuance.

(d) *Unaccompanied baggage.* Unaccompanied baggage arriving in the U.S. under a check number from any foreign country by air and presented timely to Customs may be authorized for delivery by the carrier after inspection and

examination without preparation of an entry, declaration, or being manifested as cargo. Such baggage must be found to be free of duty or tax under any provision of Chapter 98, HTSUS (19 U.S.C. 1202), and cannot be restricted or prohibited. Unaccompanied checked baggage not presented timely to Customs or presented timely and found by Customs to be dutiable, restricted, or prohibited may be subject to seizure. Such unaccompanied checked baggage shall be added to the cargo list in columns under the following headings:

Check No.	Description	Where from	Destination	Name of examining officer	Disposition

The two columns, headed "Name of examining officer" and "Disposition," are provided on the cargo manifest for the use of Customs officers. Unaccompanied unchecked baggage arriving as air express or freight shall be manifested as other air express or freight.

(e) *Accompanied baggage in transit.* This section applies when accompanied baggage enters into the U.S. in one aircraft and leaves the U.S. in another aircraft. When passengers do not have access to their baggage while in transit through the U.S., the baggage is considered cargo and shall be listed on Customs Form 7509, Air Cargo Manifest.

[T.D. 88-12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 89-1, 53 FR 51255, Dec. 21, 1988; T.D. 02-51, 67 FR 55721, Aug. 30, 2002]

§ 122.49 Correction of air cargo manifest or air waybill.

(a) *Shortages—(1) Reporting.* Shortages (merchandise listed on the manifest or air waybill but not found) shall be reported to the port director by the aircraft commander or agent. The report shall be made:

- (i) On a Customs Form 5931, filled out and signed by the importer and the importing or bonded carrier; or
- (ii) On a Customs Form 5931, filled out and signed by the importer alone under § 158.3 of this chapter; or

(iii) On a copy of the cargo manifest, which shall be marked "Shortage Declaration," and must list the merchandise involved and the reasons for the shortage.

(2) *Time to file.* Shortages shall be reported within the time set out in part 158 of this chapter, or within 30 days of aircraft entry.

(3) *Evidence.* The aircraft commander or agent shall supply proof of the claim that:

- (i) Shortage merchandise was not imported, or was properly disposed of; or
- (ii) That corrective action was taken. This proof shall be kept in the carrier file for one year from the date of aircraft entry.

(b) *Overages—(1) Reporting.* Overages (merchandise found but not listed on the manifest or air waybill) shall be reported to the port director by the aircraft commander or agent. The report shall be made:

- (i) On a Customs Form 5931; or
- (ii) On a separate copy of the cargo manifest which is marked "Post Entry" and lists the overage merchandise and the reason for the overage.

(2) *Time to file.* Overages shall be reported within 30 days of aircraft entry.

(3) *Evidence.* Satisfactory proof of the reasons for the overage shall be kept on file by the carrier for one year from the date of the report.

(c) *Statement on cargo manifest.* If the air cargo manifest is used to report

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shortages or overages, the Shortages Declaration or Post Entry must include the signed statement of the aircraft commander or agent as follows:

I declare to the best of my knowledge and belief that the discrepancy described herein occurred for the reason stated. I also certify that evidence to support the explanation of the discrepancy will be retained in the carrier's files for a period of at least one year and will be made available to Customs on demand.

Signature _____
(Aircraft Commander or Agent)

(d) *Notice by port director.* The port director shall immediately notify the aircraft commander or agent of any shortages or overages that were not reported by the aircraft commander or agent. Notice shall be given by sending a copy of Customs Form 5931 to the aircraft commander or agent, or in any other appropriate way. The aircraft commander or agent shall make a satisfactory reply within 30 days of entry of the aircraft or receipt of the notice, whichever is later.

(e) *Correction not required.* A correction in the manifest or air waybill is not required if:

(1) The port director is satisfied that the difference between the quantity of bulk merchandise listed on the manifest or air waybill, and the quantity unladen, is the usual difference caused by absorption or loss of moisture, temperature, faulty weighing at the airport, or other such reason; and

(2) The marks or numbers on merchandise packages are different from the marks or numbers listed on the cargo manifest for those packages if the quantity and description of the merchandise is given correctly.

(f) *Statutes applicable.* If an aircraft arrives in the U.S. from a foreign area with merchandise and unaccompanied baggage for which a manifest or air waybill must be filed, section 584 (concerning manifest violations), Tariff Act of 1930, as amended (19 U.S.C. 1584, applies.

[T.D. 88–12, 53 FR 9292, Mar. 22, 1988, as amended by T.D. 98–74, 63 FR 51288, Sept. 25, 1998]

§ 122.49a Passenger and crew manifests.

(a) *General requirement.* Each air carrier, foreign and domestic, operating a passenger flight in foreign air transportation to the United States, including flights where the passengers and crew have already been pre-inspected or pre-cleared at the foreign location for admission to the United States, must transmit to Customs a passenger manifest and a crew manifest containing the information set forth in paragraph (c) of this section, as required by 49 U.S.C. 44909(c)(1). The electronic transmission of manifest information must be effected through an electronic data interchange system approved by Customs. This information must be transmitted to the U.S. Customs Data Center, Customs Headquarters.

(b) *Passenger and crew manifests separately transmitted; advance receipt by Customs.* For each flight subject to paragraph (a) of this section, the air carrier must separately transmit to Customs the passenger manifest and the crew manifest. The crew manifest must be received in advance of departure from the last foreign port or place. The passenger manifest must be received by Customs no later than 15 minutes after the flight has departed from the last foreign port or place (after the wheels are up on the aircraft and the aircraft is en route directly to the United States).

(c) *Information required—(1) Airline and flight information.* For each passenger manifest and crew manifest relating to a flight falling within the scope of paragraph (a) of this section, the following airline and flight information must be electronically transmitted to Customs: the airline IATA (International Air Transport Authority) code; the flight number (followed by the alpha character “C” in the case of the crew manifest for the flight); the departure location IATA code; the U.S. arrival location(s) IATA code(s); the date of flight arrival in the United States; and whether each passenger and crew member on the flight is destined for the U.S. or in transit through the U.S.

(2) *Identifying information for each passenger or crew member.* In the manner prescribed in paragraph (c)(3) of this